

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CHARLES BRETT, BUILDING)	C.A. No. 05-11542 RGS
INSPECTOR OF TOWN OF HAMILTON,)	
Plaintiff,)	
))	
v.))	
))	
IRINA V. TEMKINA,))	
))	
Defendant.))	
))	

PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT

Pursuant to Fed. R. Civ. P. 56(d), Plaintiff Building Inspector of the Town of Hamilton hereby moves for entry of judgment in his favor on all counts of the Verified Complaint, namely Count I (Violation of Hamilton Zoning By-Law) and Count II (Violation of State Building Code). Based on the decision in a prior adjudicatory hearing, defendant Irina Temkina is barred by the doctrine of *res judicata* from relitigating the fact that her property located at 521 Bridge St., Hamilton, MA (the "Property"), has been in violation of the state building code and the local zoning by-law. Liability is thus established, leaving the only unresolved issue the amount of damages to be assessed. Since fines are assessed for each day that the Property was in violation of the state building code and local zoning by-law, plaintiff believes that there will need to be a hearing to determine the number of days that the Property was not in compliance. Plaintiff further relies upon the memorandum in support of this motion and the Affidavit of Donna Brewer MacKenna filed herewith.

Wherefore, plaintiff Charles Brett requests that this motion for partial summary judgment be granted.

Dated: October 20, 2006

Respectfully submitted,
CHARLES BRETT, BUILDING INSPECTOR
OF TOWN OF HAMILTON,

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the *pro se* defendant by email and by first class mail, postage pre-paid on October 20, 2006.

/s/ Donna Brewer MacKenna

By: /s/ Donna Brewer MacKenna

Donna B. MacKenna, B.B.O. No. 545254
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LOCAL RULE 7.1 CERTIFICATION

I certify that I contacted the defendant Irina V. Temkina by email in an attempt to narrow or resolve the issues raised in this motion. That effort was unsuccessful.

/s/ Donna Brewer MacKenna

Donna Brewer MacKenna

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